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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,305	09/04/2003	Gordon E. Rado	220-298 / TEL0673-01	8206

832 7590 12/01/2004

BAKER & DANIELS  
111 E. WAYNE STREET  
SUITE 800  
FORT WAYNE, IN 46802

EXAMINER
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BENTON, JASON

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/656,305

**Applicant(s)**

RADO ET AL.

**Examiner**

Jason Benton

**Art Unit**

3747

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-35 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-16, 18, 20, 21 and 24-28 is/are rejected.
- 7) ☒ Claim(s) 9, 17, 19, 22, 23, 29 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/19/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, 11-16, 18, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Watkins.

The patent by Watkins (4,306,531) shows a carburetor (12), a fuel tank (10), a fuel line (58), and a vent line (52). The fuel line and the vent line each fluidly communicate the fuel tank and the carburetor.

A control valve (70) includes a valve member movable between a first position in which the valve member prevents fluid communication between the fuel tank and the carburetor through the vent line and fuel line, and a second position in which the valve member allows fluid communication between the fuel tank and the carburetor through the fuel line and the vent line.

The valve member is disposed in the first position when the engine is not running. The valve member is movable to the second position responsive to the running of the engine. The second position is responsive to vacuum produced within the carburetor during the running of the engine.

A vacuum line (16) fluidly communicates the control valve and the carburetor, whereby vacuum within the carburetor is communicated to the control valve during running of the engine to move the valve member to the second position.

The control valve comprises a portion of the carburetor.

The vent line connects the fuel tank to an intake portion of the carburetor.

The fuel line connects the fuel tank to a fuel bowl of the carburetor.

The carburetor has a bore (16) in the carburetor body, the valve member is slidably disposed within the bore.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watkins.

The patent by Watkins (4,306,531) does not show a fuel tank cap on the fuel tank. It is the view of the examiner that a fuel tank, which is to be refilled, will inherently have some type of fuel tank cap.

The fuel passage further comprises a fuel outlet (36) in a lower portion of the fuel tank. The fuel outlet is in fluid communication with the intake system.

With regards to claim 27: It is the view of the examiner that it is well known in the art for the fuel tank to have a filler neck that has cooperating threads in engagement with a fuel tank cap.

***Allowable Subject Matter***

Claims 10, 19, 22, 23, 29, and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 31-35 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Benton whose telephone number is (703) 305-6800. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (703) 308-1946. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JB

  
Henry C. Yuen  
Supervisory Patent Examiner  
Group 3700